**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**CRIMINAL MISC.APPLICATION No. 7223 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GOPALBHAI RAMBHAI BHATIA - Applicant(s)**
**Versus**
**STATE OF GUJARAT & 1 - Respondent(s)**

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**Appearance :**

MR ASHISH M DAGLI for Applicant(s) : 1,
Mr. KT Dave, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
MR RAJESH K KANANI for Respondent(s) : 2,

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 29/08/2007**
**ORAL JUDGMENT**

Rule. Shri Rajesh K. Kanani, learned advocate waives service of Rule on behalf of respondent No.2 and Shri KT Dave, learned APP waives service of Rule on behalf of respondent No.1. With the consent of the learned advocates

appearing on behalf of the parties the matter is taken up for final hearing today.

2. By way of this application under Section 482 of the Code of Criminal Procedure the petitioner original-accused has prayed for an appropriate order to quash and set aside the complaint/FIR being C.R. No.I-22/2007 registered at Junagadh City police station.

3. Respondent No.2 herein original-complainant has filed one FIR in C.R. No. I-127/2007 before Junagadh 'B' Division police station against the petitioner, original-accused for the offences under Section 363, 366 of the IPC alleging inter alia that the petitioner had kidnapped her daughter Mittal. Being aggrieved and dissatisfied with the same the petitioner, original-accused has preferred the present application under Section 482 of the Code of Criminal Procedure to quash and set aside the impugned FIR.

4. Shri Dagli, learned advocate appearing on

behalf of the petitioner has submitted that the petitioner was in love with Mittal,daughter of original-complainant, i.e. Vanitaben;they decided to live together; they got married on 22.2.2007; and their marriage is also registered before the Registrar of Marriages, Rajkot. It is submitted that as the mother of his wife was not knowing about the marriage of the Mittal with the petitioner she has filed the impugned FIR being C.R. No.I-127/2007. It is submitted that when the complainant came to know about the marriage she had no grievance; the dispute is settled; and the original-complainant has also accepted the marriage of the petitioner with Mittal. It is submitted that even Mittal daughter of the original-complainant and now wife of the petitioner has also filed separate affidavit pointing out that they have married; she had gone voluntarily with the petitioner; and they are staying happily. Shri Dagli, learned advocate has further submitted that even the original-complainant has also filed an affidavit pointing out the settlement between the parties stating

that the original-complainant does not want to proceed further with the complaint in view of the amicable settlement and therefore it is requested to quash and set aside the impugned the FIR.

5. Shri Kanani, learned advocate appearing on behalf of respondent No.2 original-complainant has also submitted that now there is no dispute between the parties as the parties have settled the dispute amicably; the original-complainant has accepted the marriage between the petitioner and her daughter Mittalben; and that she has no objection if the impugned complaint is quashed and set aside.

6. Shri KT Dave, learned APP has submitted that in view of the settlement between the parties and that the petitioner and Mittal daughter of the original-complainant are residing happily after they got married and in view of the affidavit of Mittalben he has requested to pass an appropriate order to quash and set aside the impugned FIR.

7. Heard the learned advocates appearing for the respective parties. The impugned FIR has been filed by the respondent No.2, original-complainant against the petitioner for the offences under Section 363, 366 of the IPC alleging inter alia that the petitioner has kidnapped her daughter Mittalben. Now it appears that the petitioner has married Mittalben and their marriage is also registered with the Registrar of Marriages. The said Mittal, daughter of original-complainant and now wife of the petitioner has filed one affidavit in the present proceedings pointing out that she has gone voluntarily with the petitioner and they got married; the parties have settled the dispute; and there is no grievance and/or dispute between the complainant and the petitioner. Even the respondent No.2, original-complainant has also filed a separate affidavit pointing out that she has accepted the marriage between the petitioner and her daughter Mittal and the parties have settled the matter amicably with intervention of

family members; that there is no dispute now; and she has no objection if the FIR is quashed and set aside. Considering the facts and circumstances of the case more particularly when the petitioner has married with the daughter of the original-complainant Mittal, which marriage has now been accepted by the original-complainant and in view of the settlement arrived at between the parties; and considering the affidavit of Mittal, daughter of the original-complainant as well as of the original-complainant, to continue the criminal proceedings against the petitioner would be unnecessary harassment to the parties. Even otherwise, considering the subsequent development there are bleak chances of conviction; the original-complainant is not likely to support the Prosecution as she has already accepted the marriage; that she has no grievance as the parties have settled the dispute amicably; and she has no objection if the impugned complaint is quashed and set aside, in the interests of all the concerned parties, this is a fit case to exercise the powers under

Section 482 of the Code of Criminal Procedure and to quash and set aside the FIR impugned in the present application.

8. For the reasons stated above, the petition succeeds. The impugned complaint/FIR being C.R. No.I-22/2007 registered at Junagadh City police station is hereby quashed and set aside. Rule is made absolute accordingly.

[ M.R. Shah, J. ]

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